REMARKS

In response to the Final Office Action dated March 17, 2009, and in response to the Request for Continued Examination filed herewith, claims 1-8, 11, 12 and 28 have been amended. Claim 26 was previously canceled. Claims 1-25, 27 and 28 are pending in the application.

In paragraph 2 on page 5 of the Office Action, claims 1-4, 7-16,25,27 and 28 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis.

In paragraph 4 on page 14 of the Office Action, claims 5, 6 and 17-21 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Ellis in view of Moeller.

In paragraph 5 on page 17 of the Office Action, claims 22-24 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Ellis in view of Moeller, and further in view of Youden.

Applicant respectfully traverses the rejection, but in the interest of expediting prosecution have amended the claims. .

Independent claim 1 sets forth receiving audiovisual data from a desired transmission channel, if said audiovisual data is not compressed according to a predetermined format, compressing said received audiovisual data according to said predetermined format, storing dynamically, in a mass storage device and for a predefined period of time, compressed audiovisual data received from said desired transmission channel to be included in a title plan generated by a time shift scheduler, wherein said title plan includes information identifying a plurality of content stored dynamically as compressed audiovisual data, wherein at least one of said plurality of content has a variable duration, wherein storing compressed audiovisual data

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dynamically comprises allocating a portion of memory in the mass storage device for recording

a portion of the at least one of said plurality of content having the variable duration for

subsequent access by users, utilizing a predetermined amount of said allocated portion of

memory to record a portion of the at least one of said plurality of content having a variable

duration, allocating an additional portion of memory in the mass storage device to record a next

portion of the at least one of said plurality of content having the variable duration in response

to utilizing said predetermined amount of said allocated portion of memory, repeating said

utilizing and said allocating said additional portion of memory until all of said at least one of

said plurality of content having a variable duration is stored, and deallocating any allocated

portion of memory not used to record the at least one of said plurality of content having a

variable duration, and in response to a user request, providing to said user said stored

compressed audiovisual data beginning with a portion of said stored compressed audiovisual

data having associated with it a first temporal parameter. Independent claims 2, 12 and 28 set

forth similar elements.

In contrast, Ellis merely discloses a program guide system that records, at a remote

server, programs and associated program guide data on storage in response to record requests

generated by the program guide. The programs are recorded based on start/stop times;

duration, channels and program identifiers. Ellis does not even mention recording programs

for subsequent access by a user or subscriber.

Ellis also describes how recorded programs may be retrieved from the remote server for

playback by a user. According to the Advisory Action of August 11, 2009, Ellis teaches that a

remote media server continually prefetches the next 15 minutes of a previously recored

program as needed. The remote media server caches the first 15 minutes of content and streams the first 15 minute segment of the previously recorded program to the user. As the user advances toward minute 15, the remote media server checks to see if minutes 15 to 30 of the previously recorded program are already cached. If they are, the cached copy of minutes 15 to 30 of the previously recorded program may be used for the user. If not, the media server prefetchwa and pre-decodes the next 15 to 30 minutes of the previously recorded program, so that the video stream to the user is not interrupted. The media server continually prefetches the next 15 minutes of data as the user advances toward the end streaming 15 minute segment. Thus, according to the Final Office Action, Ellis dynamically stores audiovisual data.

Nevertheless, Ellis only teaches cache the previously recorded program. Ellis does not disclose, teach or suggest how content having a variable duration is stored. Ellis only mentions recording programs using a start/stop time or duration. However, a program having a variable duration does not have a fixed stop time or duration. Thus, the program may be "clipped" so that the user would actually miss the last portion of the program having a variable duration, e.g., a game going into extra innings or into overtime.

Thus, Ellis fails to disclose, teach or suggest the invention as defined in independent claims 1, 2, 12 and 28.

Moeller fails to overcome the deficiencies of Ellis. Moeller is merely cited as disclosing storing a temporally sub-sampled version of the desired broadcast content to generate a fast-forward track and generating real-time encoded play tracks, fast forward tracks, rewind tracks, and entry point data (EPD) files associated with each track, wherein said fast-forward and rewind tracks forming said temporally adjusted content.

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However, Moeller also does not mention a way to record content having a variable duration wherein memory is allocated a portion at a time until the program ends.

More specifically, Moeller does not describe allocating a portion of memory in the mass storage device for recording a portion of the at least one of said plurality of content having the variable duration for subsequent access by users, utilizing a predetermined amount of said allocated portion of memory to record a portion of the at least one of said plurality of content having a variable duration, allocating an additional portion of memory in the mass storage device to record a next portion of the at least one of said plurality of content having the variable duration in response to utilizing said predetermined amount of said allocated portion of memory, repeating said utilizing and said allocating said additional portion of memory until all of said at least one of said plurality of content having a variable duration is stored, and deallocating any allocated portion of memory not used to record the at least one of said plurality of content having a variable duration, and in response to a user request, providing to said user said stored compressed audiovisual data beginning with a portion of said stored compressed audiovisual data having associated with it a first temporal parameter.

Thus, Ellis and Moeller, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 1, 2, 12 and 28.

Youden fails to overcome the deficiencies of Ellis and Moeller. Youden is merely cited as disclosing storing said fast-forward tracks in extents in front to back order and storing said rewind tracks in extents. However, Youden also does not mention a way to record content having a variable duration wherein memory is allocated a portion at a time until the program ends.

More specifically, Youden does not describe allocating a portion of memory in the mass storage device for recording a portion of the at least one of said plurality of content having the variable duration for subsequent access by users, utilizing a predetermined amount of said allocated portion of memory to record a portion of the at least one of said plurality of content having a variable duration, allocating an additional portion of memory in the mass storage device to record a next portion of the at least one of said plurality of content having the variable duration in response to utilizing said predetermined amount of said allocated portion of memory, repeating said utilizing and said allocating said additional portion of memory until all of said at least one of said plurality of content having a variable duration is stored, and deallocating any allocated portion of memory not used to record the at least one of said plurality of content having a variable duration, and in response to a user request, providing to said user said stored compressed audiovisual data beginning with a portion of said stored compressed audiovisual data having associated with it a first temporal parameter.

Thus, Ellis, Moeller and Youden, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 1, 2, 12 and 28.

Dependent claims 3-11, 13-25 and 27 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 2 and 12, respectively. Further dependent claims 3-11, 13-25 and 27 recite additional novel elements and limitations. Applicants reserve the right to argue independently the patentability of these additional novel aspects. Therefore, Applicants respectfully submit that dependent claims 3-11, 13-25 and 27 are patentable over the cited references.

On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 13-2725 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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